

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

VOICES FOR INDEPENDENCE AND  
PAUL PECUNAS; ON BEHALF OF  
THEMSELVES AND ALL OTHERS  
SIMILARLY SITUATED,

*Plaintiffs*

vs.

CITY OF MEADVILLE,  
PENNSYLVANIA,

*Defendant*

Civil Action No.: 04-328

HON. BARBARA ROTHSTEIN

**JOINT MOTION TO DISMISS  
ALL CLAIMS AGAINST CITY  
OF MEADVILLE**

**Electronically filed**

VOICES FOR INDEPENDENCE (VFI),  
MICHAEL L. EAKIN; JAY SHUFFSTALL  
CAROLYN A. CREHAN; KATHY A.  
HERTZOG; PAUL PECUNAS; SANDRA  
FULLER; MARY ANN PARSHNIK; PAT  
WEAVER; FELICIA BONGIORNO;  
MELVIN BORREO; STEPHEN CLARK;  
JILL HRINDA-PATTEN; MARY D. KRUG;  
And B. LYNNE VESTAL; on behalf of  
themselves and all others similarly situated,

*Plaintiffs*

vs.

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION  
ALLEN D. BIEHLER, P.E., in his official  
Capacity as Secretary of Transportation of the  
of the Commonwealth of Pennsylvania, CITY  
OF ERIE, PENNSYLVANIA, and CITY OF  
MEADVILLE, PENNSYLVANIA,

*Defendants*

Civil Action No.: 06-78 Erie

HON. BARBARA ROTHSTEIN

**JOINT MOTION TO DISMISS**

AND NOW, come the Defendant City of Meadville, by and through its counsel, Gary M. Alizzeo, Esq., and the Shafer Law Firm, P.C., and the Plaintiffs, by and through their counsel, J. Mark Finnegan, Esq., and, together, file this Joint Motion to Dismiss, and in support thereof aver the following:

1. On November 10, 2004, a Complaint was filed by the Plaintiffs in the action at CD 04-328.

2. On March 28, 2006, a Complaint was filed by the Plaintiffs in the in the action at CD 06-78.

3. On September 2, 2005, the City of Meadville, by and through a court approved settlement order in the action at CD 04-328, committed to comply with controlling regulations concerning construction and retrofitting of curb ramps adjacent to its streets which were and are resurfaced beginning for 2006 (the "2005 Settlement Order").

4. On December 22, 2006, the City of Meadville and the Commonwealth of Pennsylvania Department of Transportation ("PennDOT"), by and through a court approved settlement order in the action at CD 06-78, agreed to share responsibility for the future design of curb ramps which are adjacent to city streets, intersections, or sidewalks that have been altered, installed, repaired, or replaced, together with the retrofitting of those curb ramps found to have been designed improperly, for the immediate two-year period prior to the filing of this lawsuit (the "2006 Settlement Order").

5. The 2006 Settlement Order set forth guidelines from which to determine which ramps were to be the responsibility of the City of Meadville and which were to be the responsibility of PennDOT.

6. The parties entered into multiple Consent Decrees, the most recent being dated March 11, 2009, whereby the Plaintiffs and the City of Meadville agreed that the City of Meadville would ensure all mutually agreed upon Meadville Curb Ramps would be retrofitted as and to the extent necessary to comply with the applicable requirements of the Americans with Disabilities Act.

7. Status Reports of the City of Meadville's progress were filed on an annual basis, as required by the multiple Consent Decrees.

8. As of this date, the City of Meadville has fulfilled all of its obligations according to the 2005 Settlement Order, 2006 Settlement Order, and multiple Consent Decrees, including construction of additional ramps as agreed upon by the parties.

9. Meadville has installed approximately 860 curb ramps pursuant to the Consent Decrees. Meadville measured each of these curb ramps to ensure that they met the ADAAG standards.

10. This dismissal affects solely Plaintiffs' claims against the City of Meadville. PennDOT, which is also a defendant in this lawsuit, and Plaintiffs claims against PennDOT, are not affected in any way. Plaintiffs retain all claims and defenses against PennDOT.

WHEREFORE, the City of Meadville and the Plaintiffs hereby jointly request this Court to Dismiss this matter as to Meadville, with prejudice, and mark this case closed with respect to all claims against the City of Meadville.

Respectfully submitted,

**SHAFFER LAW FIRM, P.C.**

BY: 

Gary M. Alizzeo, Esquire  
Attorney for The City of Meadville

**HEBERLE & FINNEGAN, PLLC**

BY: 

J. Mark Finnegan, Esquire  
Attorney for Voices for Independence